

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

TILE, INC.,

Plaintiff,

v.

**CELLNTELL DISTRIBUTION INC. and
RELIANCE DISTRIBUTION INC.,**

Defendants.

U.S. DISTRICT COURT – N.D. OF N.Y.

FILED

Nov 19 - 2021

John M. Domurad, Clerk

**1:20-CV-428
(FJS/DJS)**

APPEARANCES

K & L GATES LLP

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Boston, Massachusetts 02111
Attorneys for Plaintiff

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90 Park Avenue, Suite 1700
New York, New York 10016
Attorneys for Defendants

SCULLIN, Senior Judge

OF COUNSEL

**MORGAN T. NICKERSON, ESQ.
NICOLE M. KOZIN, ESQ.**

GALEN J. CRISCIONE, ESQ.

ORDER

In a Memorandum-Decision and Order dated June 30, 2021, the Court, among other things, granted Defendant Reliance Distribution Inc.'s ("Defendant Reliance") motion to vacate the default judgment against it conditioned on Defendant Reliance's payment of the reasonable attorney's fees that Plaintiff incurred in filing its motion for a default judgment. *See* Dkt. No. 31 at 20. Relatedly, the Court instructed Plaintiff's counsel to file and serve an affidavit with supporting documentation showing the hours expended and tasks performed related to the filing of Plaintiff's motion for a default judgment on or before July 14, 2021. *See id.* The Court also

provided Defendant Reliance with an opportunity to respond to Plaintiff's counsel's submissions on or before July 28, 2021. *See id.*

Plaintiff's counsel filed the required documentation. *See* Dkt. No. 32. Defendant Reliance did not file any response to that documentation.

According to Plaintiff's counsel's affidavit, Plaintiff incurred \$13,268.50 in attorney's fees related to the filing of its motion for a default judgment. *See* Dkt. No. 32, Affidavit of Morgan T. Nickerson, at ¶ 7. Furthermore, Plaintiff's counsel identified the three attorneys who expended hours related to the filing of such motion and set forth their experience and hourly rates as follows:

Morgan T. Nickerson, a partner with 15 years of experience specializing in intellectual property litigation, expended 15.50 hours on the motion at an hourly rate of \$705.00;

Nicole M. Kozin, an associate, who received her J.D. in 2004, expended 2.2 hours on the motion at an hourly rate of \$555.00; and

Jack S. Brodsky, an associate, who received his J.D. in 2016, expended 2.0 hours on the motion at an hourly rate of \$560.00

See id. at ¶¶ 9-11 & Exhibit "A" attached thereto.

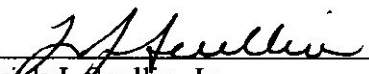
Having reviewed the documentation that Plaintiff's counsel submitted, the Court finds that the hours expended and the hourly rates for the work that the attorneys performed are reasonable; and, therefore, the Court hereby

ORDERS that Defendant Reliance Distribution Inc. shall pay Plaintiff the amount of **\$13,268.50** in attorney's fees on or before **December 3, 2021**; and upon making such payment, shall file an affidavit with the Court attesting that it has done so. Upon the filing of said affidavit, the Court will vacate the default judgment entered against Defendant Reliance; and,

within **fourteen (14) days of that vacation**, Defendant Reliance shall file its response to Plaintiff's complaint.

IT IS SO ORDERED.

Dated: November 19, 2021
Syracuse, New York



Frederick J. Scullin, Jr.
Senior United States District Judge